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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,392	03/18/2004	Christopher E. Banas	6006-146	5517

7590 09/14/2005

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EXAMINER
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SWEET, THOMAS

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/803,392

Applicant(s)

BANAS ET AL.

Examiner

Thomas J. Sweet

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolinsky et al. (US 6730116). Wolinsky et al discloses an endoluminal stent (Fig. 11) comprising; a plurality of circumferential expansion elements co-axially spaced to form a generally tubular configuration and each having a generally undulating pattern of peaks and valleys interconnected by struts (at D); and a plurality of generally linear interconnecting elements (90) interconnecting adjacent pairs of circumferential expansion elements and joined at approximate mid-points (92b) of adjacent struts along a longitudinal axis of the endoluminal stent.

With regard to claim 7, the plurality (every other one circumferentially) of generally linear interconnecting members are all parallel to each other.

With regard to claim 8, The endoluminal stent according to Claim 1, wherein the plurality of generally linear interconnecting members are arrayed as at least two groups of interconnecting members along a longitudinal axis of the endoluminal stent, a first of the at least two groups (every other one circumferentially) having a different angular orientation relative to the longitudinal axis of the endoluminal stent than a second of the at least two groups (the remainder of the struts).

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Burgermeister (US Pgpub 20020123798). Burgermeister discloses an endoluminal stent (Fig. 10) comprising; a plurality of circumferential expansion elements (the zig-zags) co-axially spaced to form a generally tubular configuration and each having a generally undulating pattern of peaks and valleys interconnected by struts; and a plurality of generally linear (linear in the center section) interconnecting elements (between the dots) interconnecting adjacent pairs of circumferential expansion elements and joined at approximate mid-points (M) of adjacent struts along a longitudinal axis of the endoluminal stent.

With regard to claim 9, the endoluminal stent elongates (can add length...) along the longitudinal axis of the endoluminal stent as it expands from a smaller diameter to a larger diameter.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolinsky et al. in view of Cox (US 6540774). Wolinsky et al discloses an endoluminal stent as discussed above including a generally zig-zag configuration along a circumferential axis (at D) of the endoluminal stent wherein the struts form generally linear sections. However, Wolinsky et al does not disclose the struts being are interconnected at the peaks and valleys by hinge elements having a width narrower than a width of the struts. Cox teaches another endoluminal stent

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including struts form generally linear sections and are interconnected at the peaks and valleys by hinge elements having a width narrower than a width of the struts for the purpose of reducing stress at the hinge (Col 9-10, lines 57-67 and lines 1-9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to interconnect the struts at the peaks and valleys by hinge elements having a width narrower than a width of the struts as taught by Cox on the stent of Wolinsky et al in order to reducing stress at the hinge.

With regard to claim 3, the plurality of generally linear interconnecting elements further comprise generally curvilinear first and second terminal sections at opposing ends of each interconnecting element that join with the struts (as see in fig. 11 of Wolinsky et al).

5. The endoluminal stent according to Claim 4, wherein the generally curvilinear first and second terminal sections of the plurality of generally linear interconnecting elements further comprise generally C-shaped sections (any curve can be categorized as C-shaped).

### ***Allowable Subject Matter***

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Globerman(US 5776161), Wolinsky et al. (US 6613079), Cox (US 6461380) and Wolinsky et al. (US 6730116).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tjs

  
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SUPERVISORY PATENT EXAMINER  
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